IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1121 OF 2007

The State of Maharashtra .. Applicant
V/s
Rajkumar Atmaram Mohite & Ors. .. Respondents

Mr.A.R.Patil, APP for the State.
Mr.T.Shekhar for Respondent Nos.1, 6, 9 & 11.

CORAM : DR.S.RADHAKRISHNAN, &
SMT.R.S.DALVI, JJ.

DATE : 24th October, 2007.

P.C.:

1. Heard the learned APP for the State and the learned Counsel for Respondent Nos.1, 6, 9 & 11. The learned APP states that the other Respondents have been duly served, however nobody is present on their behalf. Perused the trial Court's judgment of acquittal dated 21st November 2006, passed by the learned Ad-hoc Additional Sessions Judge, Sangli. In the said judgment, the learned Judge has observed in paragraph No.63 of the judgment as under:-

> "63. While discussing the evidence of witnesses as I have already observed that the witnesses in their evidence no where specifically deposed that the property which was found on the spot while preparing the spot panchnama was damaged and what simply they have deposed is that the property was found disturbed. Therefore, it is difficult for me to hold that the property which was belonging to MSEB and which was in said office was damaged in said incident. So far as breaking door of the office by the accused is concerned, I have already observed that case of the prosecution about breaking doors by the accused is not reliable and acceptable as the evidence on record clearly goes to show that office was open and, therefore, question of breaking door of the office at the relevant time does not arise and, therefore, case of the prosecution about

causing damage to the door of the office cannot be accepted. As I have already observed that the panchanama in respect of situation found on the spot is prepared on 9.2.2005 and as it has not been prepared immediately after occurring the alleged incident on 8.2.2005 in noon time, on basis of the said panchanama, it is rather difficult for me to hold that the prosecution has proved that the accused caused damage to the property which public property. Considering the entire evidence on record and with regard to the facts and circumstances of the case, it is rather difficult for me to hold that prosecution has proved an offence punishable under Section 3(2)(1) of Prevention of Public Property Damage Act as alleged by the prosecution and accordingly I answer my finding on point No.2 in negative."

2. In view of the above, we are not inclined to grant leave to appeal. Hence, Application for leave to appeal stands dismissed, and the Appeal also stands dismissed

(SMT.R.S.DALVI, J.) **(DR.S.RADHAKRISHNAN, J.)**